

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **EASTERN DISTRICT OF CALIFORNIA**  
3                                   **FRESNO DIVISION**

4 Anthony Manning,

5                                   Plaintiff,

6                                   v.

7  
8 Kilolo Kijakazi, Acting  
9 Commissioner of Social Security,

10                                  Defendant.

Case No. 1:21-cv-00071-NONE-GSA

**STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES PURSUANT  
TO THE EQUAL ACCESS TO  
JUSTICE ACT; ORDER**

11           IT IS HEREBY STIPULATED by and between the parties through their  
12 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
13 attorney fees and expenses in the amount of ONE THOUSAND EIGHT-HUNDRED  
14 FORTY-SEVEN DOLLARS and 78/100 (\$1,847.78) under the Equal Access to Justice  
15 Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of FOUR HUNDRED  
16 DOLLARS (\$400.00) under 28 U.S.C. §1920. This amount represents compensation for  
17 all legal services rendered on behalf of Plaintiff by counsel in connection with this civil  
18 action, in accordance with 28 U.S.C. § 2412(d).

19           After the Court issues an order for EAJA fees to Plaintiff, the government will  
20 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
21 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
22 to honor the assignment will depend on whether the fees are subject to any offset  
23 allowed under the United States Department of the Treasury's Offset Program. After  
24 the order for EAJA fees is entered, the government will determine whether they are  
25 subject to any offset.

26           Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
27 determines that Plaintiff does not owe a federal debt, then the government shall cause  
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1 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to  
2 the assignment executed by Plaintiff. Any payments made shall be delivered to  
3 Plaintiff's counsel, Jonathan O. Peña.

4 This stipulation constitutes a compromise settlement of Plaintiff's request for  
5 EAJA attorney fees, and does not constitute an admission of liability on the part of  
6 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
7 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
8 Counsel including Counsel's firm may have relating to EAJA attorney fees in  
9 connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm  
11 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the  
12 savings clause provisions of the EAJA.

13 Respectfully submitted,

14  
15 Dated: November 2, 2021

/s/ Jonathan O. Peña  
JONATHAN O. PEÑA  
Attorney for Plaintiff

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18 Dated: November 16, 2021

PHILLIP A. TALBERT  
Acting United States Attorney  
DEBORAH LEE STACHEL  
Regional Chief Counsel, Region IX  
Social Security Administration

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21  
22 By: \* Marcelo N. Illarmo  
23 Marcelo N. Illarmo  
24 Special Assistant U.S. Attorney  
25 Attorneys for Defendant  
26 (\*Permission to use electronic signature  
27 obtained via email on November 16, 2021).  
28

**ORDER**

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"),

**IT IS ORDERED** that fees and expenses in the amount of ONE THOUSAND EIGHT-HUNDRED FORTY-SEVEN DOLLARS and 78/100 (\$1,847.78) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of FOUR HUNDRED DOLLARS (\$400.00) under 28 U.S.C. §1920 be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: November 23, 2021

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE